



"To enrich lives through effective and caring service"



Santos H. Kreimann
Director

Kerry Silverstrom
Chief Deputy

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

36 of MAR 30 2010

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

March 30, 2010

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF NEGOTIATED RENT
AMENDMENT NO. 12 TO LEASE NO. 10200
PARCEL 132S (CALIFORNIA YACHT CLUB)-MARINA DEL REY
(SUPERVISORIAL DISTRICT FOUR)
(4 VOTES)**

SUBJECT

This Board letter requests approval of a Marina del Rey lease amendment for Parcel 132S (California Yacht Club) that increases one rental rate category from 10% to 12.5% , adjusts the annual minimum rent from \$652,680 to \$695,994, updates the insurance provisions, and adds a late fee provision.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed Lease Amendment No. 12 to Lease No. 10200 is categorically exempt under the California Environmental Quality Act pursuant to class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Approve and authorize the Chair of the Board to sign the attached Amendment No. 12 to Lease No. 10200 pertaining to the readjustment of rents and insurance for a ten-year term ending October 31, 2016, which reflects a negotiated settlement based on current market conditions with respect to adjustment of the percentage rental rate for the rental of land and/or water facilities for filming and other activities not covered by other percentage rental categories from 10% to 12.5% and of the square foot rental (minimum rent) every three years, with the current adjustment increasing the annual minimum rent from \$652,680 to \$695,994, as well as incorporates updated insurance

provisions and adds a late fee provision.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Marina del Rey ground leases generally provide for the periodic review of leasehold rents and liability insurance coverage to ensure that the rental rates payable to the County are maintained at current fair market levels and that the amount of general liability insurance is adequate to protect the County's interests. County rents are typically computed as the fixed minimum rent plus the difference between the fixed minimum rent and the percentage rent of the lessee's gross receipts from uses of the leasehold. If the fixed minimum rent is greater than the negotiated percentage rent of the lessee's gross receipts, then only the minimum rent is collected.

Parcel 132S (California Yacht Club) lease requires adjustment of rents on November 1, 1996 and every tenth anniversary thereafter. Based upon comparable rates at other Marina del Rey leaseholds, the Department of Beaches and Harbors has negotiated with the lessee an increase in the percentage rent for the rental of land and/or water facilities for filming and other activities not covered by other percentage rental categories from the current 10% to 12.5%.

Amendment No. 12 also provides for the adjustment of the minimum rent on the first day of November of every third year from the 2006 Rental Adjustment Date, to an amount equal to 75% of the average annual rent payable by the lessee to the County over the prior three years. The current adjustment increases the annual minimum rent from \$652,680 to \$695,994.

Additionally, Amendment No. 12 incorporates changes to the indemnity clause, insurance requirements, and miscellaneous insurance provisions to conform to the Chief Executive Office's Risk Management Branch's new and more stringent requirements. Finally, Amendment No. 12 provides for addition of a late fees provision to the Parcel 132S lease, which allows the County to collect a fee of six percent of any amount unpaid when due and payable. In addition to the late fee, any unpaid rent due shall additionally bear interest at an annual rate equal to the Prime Rate plus three percent.

Implementation of Strategic Plan Goals

The recommended action will ensure fair market County percentage rent at Parcel 132S and incorporates new insurance provisions in fulfillment of Strategic Plan Goal No. 1, "Operational Effectiveness", Strategy 1, "Fiscal Sustainability".

FISCAL IMPACT/FINANCING

Amendment No. 12 results in an increase in the minimum rent from \$652,680 to \$695,994, an increase of \$43,314. However, as the percentage rents for this leasehold routinely exceed the minimum rent, an increase in annual rent is only anticipated in connection with the 2.5% increase in the percentage rental category for rental of land and/or water facilities for filming and other activities not covered by other percentage rental categories. Additionally, Amendment No. 12 contains a provision for payment of retroactive rent, which the lessee shall remit within ten days of your Board's approval of Amendment No. 12. The approximate amount of retroactive rent is \$3,950, which, when added to the projected annual percentage rent increase of \$2,011, will yield an additional \$5,961 to

the County in Fiscal Year 2009-10.

Operating Budget Impact

The recommended action will increase Marina del Rey revenue by an estimated \$2,011 in percentage rent and approximately \$3,950 in one-time retroactive rent. These revenues will be accounted for in the Department of Beaches and Harbors' 2009-10 Marina del Rey operating budget as one-time over-realized revenues.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Commonly known as the California Yacht Club, Parcel 132S contains 253 boat slips and a 20,000 square foot two-story clubhouse and ancillary buildings and occupies 5.69 acres of land and 9.95 acres of water in Marina del Rey. The 56-year and nine-month ground lease was executed in 1965.

Amendment No. 12 has been approved as to form by County Counsel. At its meeting of December 9, 2009, the Small Craft Harbor Commission endorsed the Director of the Department of Beaches and Harbors' recommendation that your Board approve and execute the Amendment No. 12.

ENVIRONMENTAL DOCUMENTATION

Amendment No. 12 is categorically exempt under the provisions of the California Environmental Quality Act pursuant to class 1(r) of the County's Environmental Document Reporting Procedures and Guidelines.

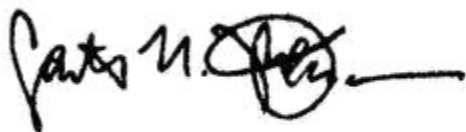
IMPACT ON CURRENT SERVICES (OR PROJECTS)

There will be no impact on current services from your Board's approval of Amendment No. 12.

CONCLUSION

Please have the Chair of the Board sign all three copies of Amendment No. 12 and have the Executive Officer of the Board return two executed copies, as well as a copy of the adopted Board letter, to the Department of Beaches and Harbors.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Santos H. Kreimann", followed by a horizontal line.

SANTOS H. KREIMANN
Director

SHK:KS:GJ:PW:skn

Enclosures

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors

AMENDMENT NO. 12 TO LEASE NO. 10200

Parcel No. 132S--Marina del Rey

THIS AMENDMENT TO LEASE is made and entered into this 30TH
day of MARCH, 2010 (the "Effective Date"),

BY AND BETWEEN

COUNTY OF LOS ANGELES,
hereinafter referred to as "County,"

AND

LAACO, LTD., a California limited
partnership, hereinafter referred to
as "Lessee."

WITNESSETH:

WHEREAS, County and Lessee entered into Lease No. 10200 under the terms of which County leased to Lessee that certain real property located in the Marina del Rey Small Craft Harbor, County of Los Angeles, State of California, now commonly known as Parcel 132S, which leasehold premises (the "Premises") are more particularly described in Exhibit "A" attached to and incorporated in said lease, as amended (the lease and all amendments are collectively hereafter referred to as the "Lease"); and

WHEREAS, Section 15 to said Lease provides that as of November 1, 1996, and as of November 1st of every tenth (10th) year thereafter (each such date is hereafter referred to as a "Rental Adjustment Date"), the rates for square foot rental and all categories of percentage rentals and liability insurance requirements (collectively, the "Adjusted Rentals") shall be readjusted by Lessee and County in accordance with the standards established in said Section 15; and

WHEREAS, Section 15 further provides that Adjusted Rentals may be determined by Lessee and County by mutual agreement at any time; and

WHEREAS, the parties hereto have reached agreement with respect to the Adjusted Rentals which are to apply as of November 1, 2006 (the "2006 Rental

10200

AMENDMENT 12

Adjustment Date”); and

WHEREAS, the parties have reached agreement with Lessee as to a late payment provision; and

WHEREAS, the parties have reached agreement with respect to the amount of liability insurance required to be maintained by Lessee for the ten-year period commencing on the November 1, 2006 Rental Adjustment Date.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and restrictions contained herein, the parties, and each of them, agree as follows:

1. **Square Foot Rental.** Commencing as of the 2006 Rental Adjustment Date, the first paragraph of Section 12 (Square Foot Rental) of said Lease is hereby deleted and the following substituted therefor:

"As of November 1, 2006 and as of each third anniversary of said date thereafter (each an "Adjustment Date" and collectively the "Adjustment Dates"), the annual square foot rental shall be adjusted to the amount which equals seventy-five percent (75%) of the annual average of all rents payable to the County during the immediately proceeding three (3) years."

2. **Percentage Rental.** Commencing as of the 2006 Rental Adjustment Date, Section 13 (c)(ii)(2) of the Lease is hereby deleted in its entirety and (c)(iv) is added to read as follows:

"TWELVE AND ONE HALF PERCENT (12.5%) of the gross receipts and other fees for rental of land and/or water facilities for activities not otherwise provided for in this Section, such as but not limited to television and/or motion pictures."

3. **Retroactive Rent.** Lessee shall pay to County, within ten (10) days following the Effective Date, for the period between the 2006 Rental Adjustment Date and the

actual date of payment (the "Retroactive Period"), the difference between (i) minimum annual rent payable by Lessee under the rental rate in effect prior to the effectiveness of this Lease Amendment from the 2006 Rental Adjustment Date to the Effective Date and (ii) the minimum annual rent payable from the 2006 Rental Adjustment Date to the Effective Date based upon the rental adjustment set forth in this Lease Amendment ("Retroactive Payment").

4. **Late Fees.** Commencing as of the Effective Date, the following Section 13.1 will be added to the Lease as follows:

"In the event any payment is not received by County by the date due, Lessee acknowledges that County will experience additional management, administrative and other costs that are impracticable or extremely difficult to determine. Therefore, a fee ("Late Fee") of six percent (6%) of the unpaid amount shall be added to any amount unpaid when due and payable; provided that the Late Fee shall be waived with respect to the first occurrence during any Lease Year of a late payment if such payment is received by County within one (1) business day following written notice from County that the unpaid amount was not paid by the date due. In addition to any Late Fee, any unpaid rent due shall additionally bear interest at an annual rate equal to the Prime Rate plus three percent (3%), computed from the date when such amounts were due and payable, compounded monthly, until paid. Lessee acknowledges that such Late Fee and interest shall be applicable to all identified monetary deficiencies under this Lease, whether identified by audit or otherwise, and that interest on such amounts shall accrue from after the date when such amounts were due and payable as provided herein (as opposed to the date when such deficiencies are identified by County)."

5. **Insurance Provisions.** Commencing as of the Effective Date, Sections 25, 26, 27, and 28 of said Lease are deleted in their entirety and the following substituted therefor:

“25. **Indemnification.** Lessee shall indemnify, defend and hold Los Angeles County (County), its Special Districts, elected and appointed officers, employees and agents harmless from and against all liability, including, but not limited to, demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with Lessee, its members, agents and invitees, operations and use of the Premises, provided, however, that Lessee shall not be obligated to so indemnify County against any damages caused solely by the gross negligence or willful misconduct of County or its agents or contractors.

26. **Insurance Requirements.** Without limiting Lessee’s indemnification of County and during the term of this Lease, Lessee shall provide and maintain the following insurance specified in this Lease. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Lessee’s own expense.

A. **General Liability insurance** (written on ISO policy form CG 00 01 or its equivalent) and endorsed to name County as an additional insured, with limits of not less than the following:

General Aggregate:	\$10 million
Products/Completed Operations Aggregate:	\$10 million
Personal and Advertising Injury:	\$5 million
Each Occurrence:	\$5 million

B. **Automobile Liability insurance** (written on ISO form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident and providing coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”. If and when valet parking services are provided at the Premises, Lessee shall provide Garagekeeper’s Legal Liability coverage (written on ISO form CA 99 37 or its equivalent) with limits of not less than \$3 million for this location.

C. Workers' Compensation and Employers' Liability

providing Workers' Compensation benefits, as required by the Labor Code of the State of California and for which Lessee is responsible. If Lessee's employees will be engaged in maritime employment, coverage shall provide Workers' Compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Lessee is responsible.

In all cases, the above insurance shall also include Employers' Liability coverage with limits of not less than the following:

Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

D. Commercial Property insurance: Such insurance:

(1) Shall cover damage to the Premises, including improvements and betterments, from perils covered by the Causes-of-Loss Special Form (ISO form CP 10 30 or its equivalent), including earthquake (if Lessee deems it reasonable), Ordinance or Law Coverage and Business Interruption equal to two (2) years' annual rent;

(2) Shall be written for the full replacement value of the property, with a deductible no greater than \$250,000 or 5% of the property value, whichever is less; and

(3) Upon the occurrence of any loss, the proceeds of such insurance shall be held by County in trust for the named insureds as their interests appear. In the event of such loss, Lessee shall be obligated to rebuild or replace the destroyed or damaged buildings, structures, equipment and improvements to the full satisfaction of the County. Said obligation to rebuild or replace is not dependent upon the existence of insurance. County shall reimburse Lessee for said rebuilding or replacement out of and to the full extent of the proceeds of said insurance as

payments are required for said purposes. Any surplus proceeds after said rebuilding or replacement shall be distributed to the named insureds as their interests may appear.

E. Liquor Liability insurance (written on ISO policy form CG 00 33 or 34 or their equivalent) if and when the manufacture, distribution or service of alcoholic beverages occurs in the Premises, with limits of not less than \$5 million per occurrence and \$10 million aggregate. If written on a "claims made" form, the coverage shall also provide an extended two (2) year reporting commencing upon the expiration or earlier termination of this Agreement, or replacement coverage shall be maintained until such time.

F. Marina Operator's Liability if operating a marina, berthing, docking, and/or launching of boats and/or pleasure crafts, and/or use of floating docks, piers and/or ramps, with limits of not less than \$5 million per occurrence and \$10 million aggregate. If written on a "claims made" form, the coverage shall also provide an extended two (2) year reporting period commencing upon the expiration or earlier termination of this Agreement, or replacement coverage shall be maintained until such time.

27. MISCELLANEOUS INSURANCE PROVISIONS.

A. Waivers of Subrogation. Lessee shall obtain appropriate endorsements upon all insurance policies, other than Workers' Compensation, waiving subrogation by the insurer(s) against County.

B. Evidence of Insurance. Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to County prior to the Effective Date. Such certificates or other evidence shall:

1. Specifically identify this Lease.
2. Clearly evidence all coverages required in this Lease.

3. Contain the express condition that insurer will use its best efforts to give written notice by mail to County at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance.
4. Identify any deductibles or self-insured retentions exceeding \$25,000.

C. Review of Insurance Requirements. Throughout the term of this Lease and upon Notice to Lessee, County may review and adjust at any time the types and limits of insurance required under this Lease to a commercially reasonable level. Insurance is to be provided by insurers acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

D. Failure to Maintain Coverage. Failure by Lessee to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of this Lease. Alternatively, the County may purchase such required insurance coverage, and without further notice to the Lessee, may deduct any premium costs advanced by the County for such insurance from the Lessee's security deposit.

E. Notification of Incidents, Claims or Suits. Lessee shall report to County any accident or incident relating to services performed under this Lease which involves injury or property damage, which Lessee reasonably believes has a substantial likelihood of the filing of a claim or lawsuit against the County. Such report shall be made in writing within 72 hours of Lessee's knowledge of such occurrence.

F. Compensation for County Costs. In the event that Lessee fails to comply with any of the indemnification or insurance requirements of this Agreement, and such failure to comply results in any costs to County, Lessee shall pay full compensation for all reasonable costs incurred by County.

6. **Miscellaneous.** Except as herein specifically amended, all terms, conditions and provisions of the Lease shall be and continue to remain in full force and effect and are unmodified, and each of the parties hereto reaffirms and reacknowledges its respective obligations under the Lease as amended hereby.

IN WITNESS WHEREOF, County has, by order of its Board of Supervisors, caused this Amendment to Lease to be subscribed by the Chair of said Board and attested by the Executive Officer thereof, and the Lessee, by its duly authorized representative, has executed the same.

I hereby certify that pursuant to
Section 54920 of the Government Code,
delivery of this document has been made.


Dated: **MAR 30 2010**, 2010

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By: 
Deputy




COUNTY OF LOS ANGELES

By: 
Chair, Board of Supervisors

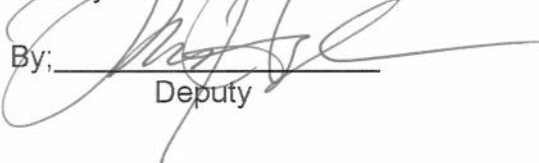
ATTEST:

SACHI A. HAMAI
Executive Officer-Clerk of the
Board of Supervisors

By: 
Deputy


APPROVED AS TO FORM

ANDREA SHERIDAN
County Counsel

By: 
Deputy

LESSEE:

LAACO, Ltd. a California limited partnership

By: 
Steven K. Hathaway
Its: Senior Vice President

By: 
Charles E. Michaels
Its: Secretary

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

#86 • MAR 30 2010


SACHI A. HAMAI
EXECUTIVE OFFICER

10200
SUPPLEMENT 12

LEGAL DESCRIPTION

Marina Del Rey
Lease Parcel No. 132S

Those portions of Parcels 660 to 666 inclusive, 670 to 677 inclusive, 679 to 683 inclusive and 905, in the County of Los Angeles, State of California, as shown on Los Angeles County Assessor's Map No. 88, filed in Book 1, pages 53 to 70 inclusive, of Assessor's Maps, in the office of the Registrar-Recorder of said County, within the following described boundaries:

Beginning at the northeasterly corner of said Parcel 660; thence southerly along the easterly line of said last mentioned parcel a distance of 195.00 feet to the northerly line of said Parcel 677; thence South $77^{\circ}07'44''$ East along said northerly line and the northerly line of said Parcel 679 a distance of 318.79 feet to the most easterly corner of said Parcel 679; thence southwesterly along the southeasterly line of said last mentioned parcel a distance of 73.49 feet to the most westerly corner of Parcel 678, as shown on said map; thence easterly along the southerly line of said last mentioned parcel a distance of 22.05 feet to a line parallel with and 65 feet southeasterly, measured at right angles, from the northwesterly line of said Parcel 679; thence South $60^{\circ}00'00''$ West along said parallel line 1122.95 feet; thence North $25^{\circ}47'07''$ West 632.91 feet to a point in the southerly prolongation of the westerly line of said Parcel 670 distant South along said westerly line and said southerly prolongation 328.00 feet from the northwesterly corner of said last mentioned parcel; thence North along said southerly prolongation and said westerly line 328.00 feet to said northwesterly corner; thence South $77^{\circ}07'44''$ East along the northerly lines of said Parcels 670 to 673 inclusive, a distance of 346.72 feet to the easterly line of the westerly 42.30 feet of said Parcel 666; thence northerly along said last mentioned easterly line to a line parallel with and 59 feet northerly, measured at right angles, from the southerly line of said last mentioned parcel; thence South $77^{\circ}07'44''$ East along said last mentioned parallel line 154.57 feet to a point distant North $77^{\circ}07'44''$ West thereon 148.00 feet from the westerly line of the easterly 55.13 feet of said Parcel 663; thence northerly at right angles from said last mentioned parallel line 18.00 feet; thence South $77^{\circ}07'44''$ East along a line parallel with said last mentioned southerly line 148.00 feet to said last mentioned westerly line; thence northerly along said last mentioned westerly line 118.00 feet to the northerly line of said last mentioned parcel; thence South $77^{\circ}07'44''$ East along the northerly lines of said Parcels 663, 662, 661 and 660 a distance of 355.13 feet to the point of beginning.

Together with the use, in common with others, of that portion of that certain 11 foot easement for sanitary sewer and harbor utility purposes, shown on said map to be reserved by the County of Los Angeles for such purposes, which extends from

the easterly line of the westerly 42.30 feet of said Parcel 666, westerly to the westerly line of Parcel 668, as shown on said map.

Reserving and excepting unto the County of Los Angeles rights of way for sanitary sewer, fire access, storm drain, access and harbor utility purposes in and across those portions thereof designated on said map as easements to be reserved by said County for such purposes, together with the right to grant same unto others.

DESCRIPTION APPROVED

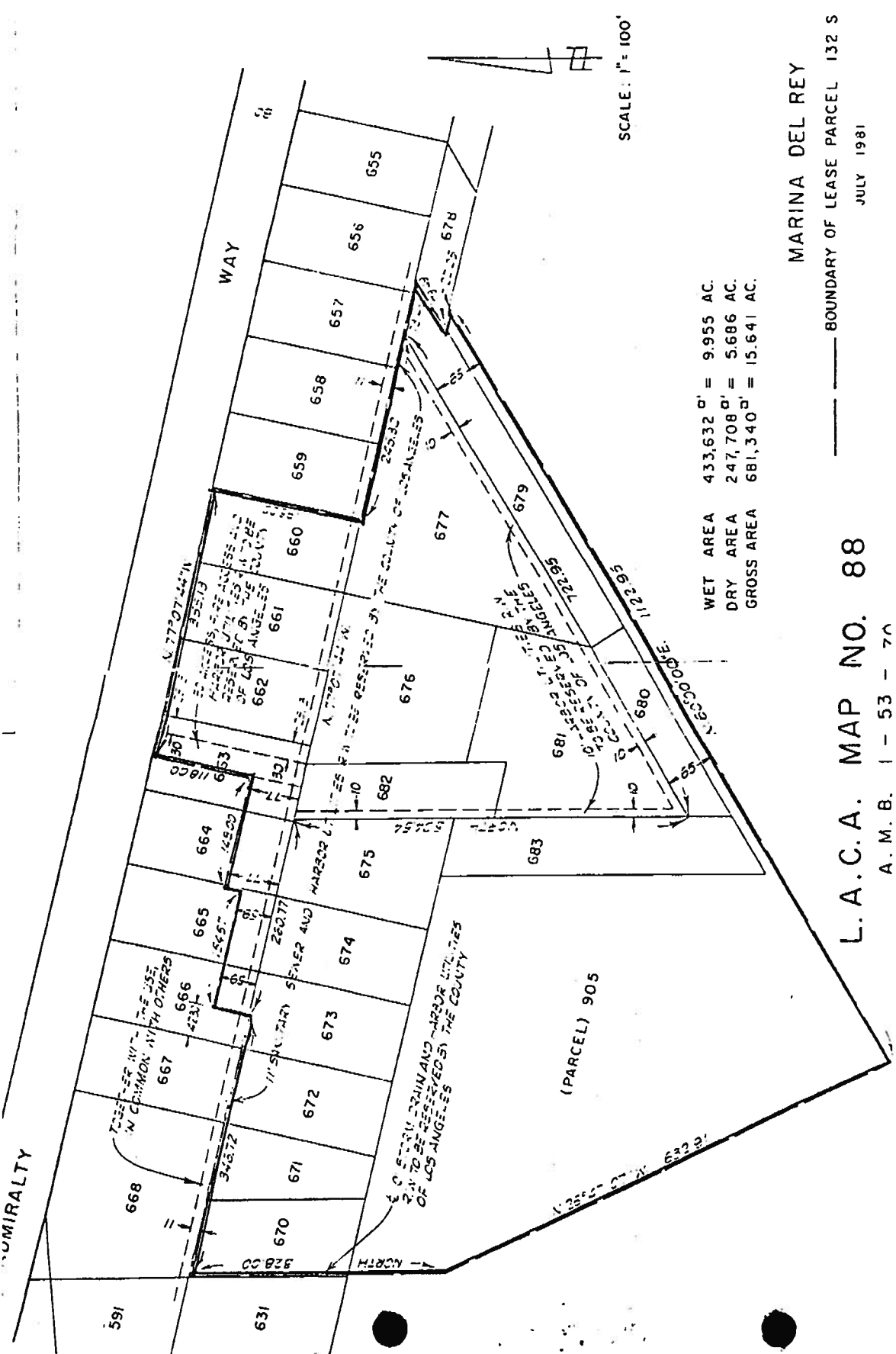
FEB 3 1981

STEPHEN J. KOONCE

County Engineer

By *Elmer Sakulski* Deputy

ADMIRALTY



WET AREA 433,632 \square' = 9.955 AC.
DRY AREA 247,708 \square' = 5.686 AC.
GROSS AREA 681,340 \square' = 15.641 AC.

MARINA DEL REY

____ BOUNDARY OF LEASE PARCEL 132 S

L.A.C.A. MAP NO. 88

A.M.B. 1 - 53 - 70

JULY 1981